

UNITED STATES DISTRICT COURT  
Northern District of Illinois  
Eastern Division

HHH

Rodney Patton

v.

08 CV 1975

Wilvis Harris

FILED

5-9-2008  
MAY - 9 2008 *aw*

Notice of Appeal

MICHAEL W. DOBBING  
CLERK, U.S. DISTRICT COURT

Notice is hereby given that Rodney Patton, Plaintiff in the above named case, Appeals from the judgment entered on April 10<sup>th</sup>, 2008.

Dated this 7<sup>th</sup> day of MAY, 2008

Signed: Rodney Patton

Appellant

Rodney Patton N-90674

P.O. Box 112

Joliet, Illinois 60434-0112

UNITED STATES COURT OF APPEALS  
for the 7th Circuit

Rodney Patten

v.

08 CV 1975

Wilbur Harris

Appeal

This is an appeal from a judgment by the District Court, the Honorable Milton I. Shador, denying the Plaintiff's complaint for failure to state a claim. The Plaintiff filed a Motion to reconsider basing the reconsideration on information the Plaintiff received after the Plaintiff complaint was filed. The Plaintiff feels that the Honorable Milton I. Shador misunderstood the Plaintiff Complaint/Motion, and when the Plaintiff seek to amend the complaint it should have been granted. The Plaintiff will not waste the court time on this matter but will present the main issue in the Plaintiff complaint.

The Plaintiff ask the Court of Appeals to reverse the judgment entered with direction to allow the Plaintiff leave to amend my complaint.

For the following reasons this Appeal should be granted:

Defendant Harris wrote an disciplinary report (Exhibit A) in which he failed to provide exonerating information (Exhibit F) <sup>that</sup> ~~which~~ would have cleared the Plaintiff based on information he had at the time he wrote the disciplinary report. (Exhibit F) The Plaintiff states that under Section 504.30 of the Code of Corrections my Constitutional rights to due process were denied by Defendant Harris. Section 504.30 reads in full that "504.30 D(4)(5) The disciplinary report must be fully completed. The reporting employee shall provide the following information to the extent known or available, ... (4) A written statement of the conduct observed, ... (5) The names of offenders, employees, and visitors who were witnesses. The identity of witness may be withheld for reasons of security provided a statement to the effect and the information the confidential source provided are provided on the disciplinary report to the extent the information can be included without jeopardizing security." Under this section Defendant Harris violated my constitutional rights to due process by not giving a full account (Exhibit F) of the events that took place before he wrote the disciplinary report (Exhibit A) when he had knowledge and knew

that failure to state such would result in the Plaintiff not receiving a fair hearing.

Secondly the Plaintiff complains that the test (urinalysis) was conducted incorrectly as outline in (Exhibit B) the Plaintiff statement given to the Adjustment Committee. Defendant Harris failure to administer the urine test correctly resulted in a false positive reading when Defendant Harris poured the Plaintiff first sample in the toilet. A new test cup was to be provided as outline in (Exhibit H) the manual provided by the manufacture. Defendant Harris failure to also know that once the test was activated and there was not enough urine or in this case the removal of my urine would cause the test to fail. Defendant Harris training to follow procedure as recommend by the Manufacture cause the plaintiff constitutional rights to due process to yet again to be violated.

Defendant Harris signed a statement written by the Plaintiff in which Defendant Harris wrote "I validate the statement" (Exhibit F) The failure to include this information in the disciplinary report and the failure to administer the urine test correctly violates the plaintiff due process right and the Plaintiff should have been granted leave to amend my complaint base

on the information provided.

The Plaintiff further states that at the time the complaint was being screen I did not have this information (Exhibit H), but in my Motion for reconsideration I ask the District Court to Allow me leave to Amend my Complaint.

The Plaintiff filed with the District Court A motion for reconsideration and my Motion was not heard. The Plaintiff had 10 days to file my Motion for reconsideration before the Court and the Plaintiff motion was Dated April 17, 2008, And the Clerk stamp it received April 21, 2008, the Plaintiff then sent in another notice to the Court to be heard, but no answer at the time of the Appeal.

The Plaintiff ask the court of Appeals to review the Plaintiff claim, And Allow the Plaintiff leave to Amend.

Respectfully Submitted,



Appeal Dated May 7, 2008

Committed Person: Patten No. N90674 Facility: STATE PRIS. C.C.

Observation Date: 10-4-07 Time: 12:50 p.m. Altitude: 7-15 SE

Wilvis Harris W. Harris 10-4-07 1:00 p  
PRINT Employee's Name Employee's Signature/Date/Time

Offense: 604 <sup>(A)</sup> 203 Drugs and Drug Paraphernalia

Observation: On the above date and approximate time, this R/c  
Ordered inmate PATTEN W40674 to provide a urine sample  
for the purpose of a drug test. The urine sample inmate  
PATTEN W40674 supplied was tested directly in a Quick Screen 5  
test cup, which displayed a positive detection of Amphetamines.

END Report

Witnesses, if any: \_\_\_\_\_

NOTE: Use continuation page if necessary to describe observation and/or list witnesses.

☐ Temporary Confinement      ☐ Investigative Status      Reasons: \_\_\_\_\_

LT J Frankl  
PRINT Name

OK M Frank 10/04/00  
(Shift Supervisor's Signature and Date)

☒ Confinement Reviewed by Reviewing Officer      Comment: \_\_\_\_\_  
Master A. Hester      [Signature]      10-5-07  
 PRINT Name      Signature/Date

☒ MAJOR, submitted to Adjustment Committee      ☐ MINOR, submitted to Program Unit

Major A. Hunter      [Signature] 10-0-57

PRINT Name      Reviewing Officer's Signature and Date

☒ Reviewed by Hearing Investigator: A. F. Major A. F. Major 105-0  
(Adult Division Major Reports Only) PRINT Name Signature and Date

**PROCEDURES APPLICABLE TO ALL HEARINGS ON INVESTIGATIVE AND DISCIPLINARY REPORTS**

You have the right to appear and present a written or oral statement or explanation concerning the charges. You may present relevant physical material such as records or documents.

**PROCEDURES APPLICABLE TO HEARINGS CONDUCTED BY THE ADJUSTMENT COMMITTEE ON DISCIPLINARY REPORTS**

You may ask that witnesses be interviewed and, if necessary, they may be called to testify during your hearing. You may ask that witnesses be questioned along lines you suggest. You must indicate in advance of the hearing the witnesses you wish to have interviewed and specify what they could testify to by filling out the appropriate space on this form, tearing it off, and returning it to the Adjustment Committee. You may have staff assistance if you are unable to prepare a defense. You may request a reasonable extension of time to prepare for your hearing. If you are found guilty of a serious rule violation, you may be placed in confinement and/or lose privileges, and/or be required to make restitution. In addition, juveniles may receive a delay in recommended parole.

Committed Person's Signature and Number		Committed Person Refused to Sign	
B. WESTERHANSEN #2538	B. WESTERHANSEN	10-8-07	8:10 AM
PRINT Serving Employee's Name	Serving Employee's Signature	Date and Time Served	

I hereby agree to waive 24-hour notice of charges prior to the disciplinary hearing.

Exhibit A

Offering Date:

## STATE OF ILLINOIS -- DEPARTMENT OF CORRECTIONS 4/7/09

ADJUSTMENT COMMITTEE  
FINAL SUMMARY REPORT

Name: PATTON, RODNEY

IDOC Number: N90674

Race: BLK

Hearing Date/Time: 10/9/2007 09:40 AM

Living Unit: STA-F-01-15

Orientation Status: N/A

Incident Number: 200701847/1 - STA

Status: Final

Date	Ticket #	Incident Officer	Location	Time
10/4/2007	200701847/1-STA	HARRIS J, NATHAN A	F HOUSE	12:50 PM

Offense	Violation	Final Result
203	Drugs & Drug Paraphernalia <i>Comments: TESTED POSITIVE FOR AMPHETAMINES</i>	Guilty

Witness Type	Witness ID	Witness Name	Witness Status
No Witness Requested			

## RECORD OF PROCEEDINGS

\* Inmate was present when ticket was read. Inmate stated he was given drug test, but claims test was administered in correctly. Inmate stated he initially gave inadequate sample (urine). Inmate stated officer threw out sample. Inmate stated he was later given same cup again, not a new cup. Inmate stated he contends that first sample began the drug test activating cup, causing false reading. Inmate stated he is prescribed back pain medication. Inmate stated he denies ever using amphetamines.

## BASIS FOR DECISION

OTS shows inmate assigned to F-house on reported day. Inmate was ID by state issued ID card. Staff was giving Inmate Patton N-90674 a drug test. Staff observed inmate Patton receive on 8 ounce cup of water at 12:30pm. Staff observed inmate Patton provided a sample of urine for the drug test. Staff used a Quick screen 5 test cup, which displayed a positive test for amphetamines. All IDOC protocol was followed during the drug test. Attached is a copy of DOC0300 show a positive test. Restitution is request for the test cup, at a cost of \$7.88. Committee stands by report as written.

## DISCIPLINARY ACTION (Consecutive to any priors)

## RECOMMENDED

6 Months C Grade  
6 Months Segregation  
Revoke GCC or SGT 6 Months  
Restitution of \$ 7.88 Paid to IDOC  
6 Months Contact Visits Restriction  
6 Months Commissary Restriction  
Basis for Discipline: positive drug test

## FINAL

6 Months C Grade  
6 Months Segregation  
Revoke GCC or SGT 6 Months  
Restitution of \$ 7.88 Paid to IDOC  
6 Months Contact Visits Restriction  
6 Months Commissary Restriction

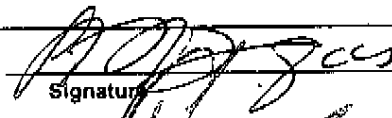

## Signatures

## Hearing Committee

EDWARDS, DARRYL M - Chair Person

CLEVINGER, TIMOTHY W

Recommended Action Approved

	10/09/07	BLK
Signature	Date	Race
	10/09/07	WHI
Signature	Date	Race

Final Comments: N/A

Exhibit B

## STATE OF ILLINOIS -- DEPARTMENT OF CORRECTIONS

## ADJUSTMENT COMMITTEE

## FINAL SUMMARY REPORT

Name: PATTON, RODNEY

IDOC Number: N90674

Race: BLK

Hearing Date/Time: 10/9/2007 09:40 AM

Living Unit: STA-F-01-15

Orientation Status: N/A

Incident Number: 200701847/1 - STA

Status: Final

TERRY L MCCANN / TLM 10/12/2007

Chief Administrative Officer

Signature

10/12/07

Date

The committed person has the right to appeal an adverse decision through the grievance procedure established by Department Rule 504: Subpart F.

R. I. Wagner  
Employee Serving Copy to Committed Person10-12-07 10:31am Via mail  
When Served -- Date and Time

ON 10-4-07 C/O W. HARRIS GAVE ME A TEST CUP FOR A URINE SAMPLE, MY FIRST SAMPLE WASN'T ENOUGH, AND C/O W. HARRIS POURED HIS SAMPLE IN THE CUP. I PUT (RP) ON THE TEST, AND REQUESTED ANOTHER TEST CUP.

C/O W. HARRIS GAVE ME WATER WHILE I WAITED.

C/O W. HARRIS CAME BACK WHEN I WAS READY, AND I GAVE ANOTHER SAMPLE, AFTER THIS SAMPLE I NOTICE THE (RP) ON THE TEST CUP, AND ASK C/O W. HARRIS WHAT HAPPEN TO THE NEW TEST CUP. C/O W. HARRIS STATED THAT HE WAS TOLD BY LT. D. JOHNSON OF INTERNAL AFFAIRS NOT TO GIVE ME ANOTHER TEST CUP. C/O W. HARRIS THEN CROTE ME UP, AND I WAS PLACED IN 588. THIS STATEMENT WAS SEEN BY BOTH PARTIES ON MARCH 6, 2008.

I VALIDATE  
THE STATEMENT

W. Harris  
C/O W. HARRIS

Rodney Patton N9067  
Rodney Patton

NOTE THIS STATEMENT GOES  
WITH COMPLAINT #1266

DISP. REPORT WRITTEN ON 10-4-07

EXHIBIT F

Pharmatech, Inc., 9530 Paden Street, Suite 101 San Diego, CA 92126 USA  
(888) 635-5841 Toll-free (619) 635-5843 fax Internet: www.pharmatech.com

## QuickScreen™ Cup Multi Drug Screening Test

### Catalog # 9177X-25

### Test Instructions

#### Intended Use

The QuickScreen™ Cup Multi Drug Screening Test is a rapid, self-timed, qualitative immunoassay for the detection of drugs of abuse in urine. The cutoff concentrations for this test are PCP at 25 ng/mL, Amphetamine at 1000 ng/mL, THC metabolite (THCA) at 50 ng/mL, Cocaine metabolite (Benzoylecgonine) at 300 ng/mL and Opioates at 2,000 ng/mL. This assay is intended for professional use.

This test provides only a preliminary test result. A more specific alternate testing method must be used in order to obtain a confirmed analytical result. Gas chromatography / mass spectrometry (GC/MS) is the preferred confirmatory method. Other chemical confirmation methods are available. Clinical consideration and professional judgment should be applied to any drug of abuse test result, particularly when preliminary positive results are observed.

#### Summary & Explanation of the Test

Phencyclidine, also known as "Angel Dust" or PCP, is used primarily for its hallucinogenic effects. Commonly eaten, inhaled, smoked or injected, it is well absorbed by all routes of administration, concentrating fastest in fatty tissues and in the brain. Unchanged PCP is excreted in the urine in moderate amounts (10% of the dose). The terminal half-life for PCP varies considerably, ranging from 8 to 55 hours, averaging 18 hours. The effects of this drug are unpredictable and variable. Users may exhibit signs of euphoria, anxiety, relaxation, increased strength, time and space distortions, panic and hallucination.

Amphetamine (AMP) and its metabolites are central nervous system stimulants whose pharmacological properties include alertness, wakefulness, increased energy, reduced hunger and an overall feeling of well being. Large doses and extended usage can result in higher tolerance levels and physiological dependency. Both *d* and *l* forms of Amphetamine are controlled substances.

$\Delta^9$ -Tetrahydrocannabinol (THC) is generally accepted to be the principle active component in marijuana and hashish, although other cannabinoids contribute to their physiological activity. THC is rapidly absorbed by inhalation and by the gastrointestinal tract, and is almost completely metabolized. Its predominant metabolite, 11-Nor- $\Delta^9$ -THC-9-carboxylic Acid, or THCA, is found in the plasma, feces and urine along with other compounds. Low concentrations of THC may be detected in urine during the initial several hours, but THCA persists in urine at a detectable concentration for many days after smoking.

Cocaine (COC) is an alkaloid present in coca leaves (*Erythroxylon coca*) whose pharmacological properties include alertness, wakefulness, increased energy and an overall feeling of euphoria. Cocaine has been used medicinally as a local anesthetic, however, its addictive properties have minimized its modern value as an anesthetic. Elimination of cocaine is predominantly controlled by its biotransformation. It is almost completely metabolized to Benzoylecgonine. Very low concentrations of Cocaine may be de-

Pharmatech, Inc., 9530 Paden Street, Suite 101 San Diego, CA 92126 USA  
(888) 635-5841 Toll-free (619) 635-5843 fax Internet: www.pharmatech.com

ected in urine during the initial several hours, but Benzoylecgonine persists in urine at detectable concentrations for 48 hrs.

Opioates (OPI 2000) are addictive, pain-relieving narcotic drugs derived from the opium poppy (*Papaver somniferum*). An opiate is any natural or synthetic drug derived from this plant that has morphine-like pharmacological actions. Natural opioates include Codeine, Morphine and Thebaine. Synthetic opioates include Heroin, Hydrocodone and Levorphanol.

Urine based screening tests for drugs of abuse range from complex analytical procedures to simple immunoassay tests. The sensitivity and rapidity of immunoassays have made them the most accepted method of preliminary screening for drugs of abuse in urine. This allows the laboratory to eliminate the large number of negative specimens and focus on the smaller number of initially positive samples.

#### Principle of the Procedure

The QuickScreen™ Cup Multi-Drug Screening Test is a competitive immunoassay that is used to screen for the presence of drugs of abuse in urine. It is a chromatographic absorbent device in which drugs or drug metabolites in a sample compete with drug / protein conjugate immobilized on a porous membrane for a limited number of antibody / dye conjugate binding sites. The test device employs a unique combination of monoclonal and polyclonal antibodies to selectively identify drugs of abuse in urine with a high degree of confidence. The test device also contains a self-timer that indicates when test results are ready to be interpreted.

In the procedure, a fresh urine sample is collected directly into the cup. The urine is absorbed into each test panel by capillary action, mixes with the antibody / dye conjugate, and flows across the pre-coated membrane. When sample drug levels are below the target cutoff (the detection sensitivity of the test), antibody / dye conjugate binds to the drug / protein conjugate immobilized in the Test Region (T) of the device. This produces a colored Test Band that, regardless of its intensity, indicates a negative result.

When sample drug levels are at or above the target cutoff, the free drug in the sample binds to the antibody / dye conjugate, preventing the antibody / dye conjugate from binding to the drug / protein conjugate immobilized in the Test Region (T) of the device. This prevents the development of a distinct colored band, indicating a potentially positive sample.

In either case, a colored Control Band is produced in the Control Region (C) by a non-specific antibody / dye / conjugate reaction. This band serves as a built-in quality control device, demonstrating antibody recognition and reactivity as well as confirming that the test is complete.

#### Reagents & Materials Supplied

- 25 "Self-Timed" Test Cups (Cat. # 9177X). Separate test panels for each target drug contain:
  - Monoclonal anti-drug antibody / colloidal gold conjugate in a protein matrix containing 11.1% sodium azide coated in the sample path
  - Drug derivative / protein conjugate immobilized as a line in the Test Region (T)
  - Goat anti-mouse antibody immobilized as a line in the Control Region (C)
- Directional Insert (Cat. # 9177X-DI)

Pharmatech, Inc., 9530 Paden Street, Suite 101 San Diego, CA 92126 USA  
(888) 635-5841 Toll-free (619) 635-5843 fax Internet: www.pharmatech.com

#### Warnings & Precautions

- FOR PROFESSIONAL, *IN VITRO* DIAGNOSTIC USE ONLY.
- This method is established using urine only. No other fluid has been evaluated. Urine has the potential to be infectious. Follow Universal Precautions for proper handling and disposal methods.
- Do not use this kit beyond its expiration date. Do not reuse the Test Device.

#### Storage & Handling Requirements

Store at room temperature (15 – 28 °C). Do not freeze. Refer to expiration date for stability.

#### Sample Collection & Preparation

A fresh urine sample should be collected in the cup device immediately prior to testing. The urine should be collected to the recommended volume indicated by the "FILL TO HERE" mark on the outside of the cup. Examine the temperature strip within 1 minute after collecting the specimen. The temperature should be between 90 and 100 °F. Samples outside this range may have been adulterated.

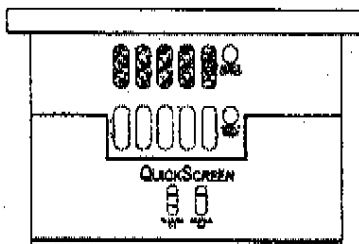
#### Assay Procedure

##### Preparation

- Confirm that the cup device is at room temperature (15 – 28 °C) before testing.
- Do not break the seal on the lid until you are ready to perform the test.

##### Testing

- Open the foil pouch, remove the test device, remove the cap from the test device and discard the desiccant packets.
- Have the donor collect his or her urine specimen in the cup to the recommended volume. Make sure that the urine level is at least at the "FILL TO HERE" mark printed on the front of the cup.
- Read the test results when indicated (see When to Read Test Results Using the "Timer.")



#### When to Read Test Results Using the "Timer"

Pharmatech, Inc., 9530 Paden Street, Suite 101 San Diego, CA 92126 USA  
(888) 635-5841 Toll-free (619) 635-5843 fax Internet: www.pharmatech.com



When the "RESULT READY" window is completely filled with red color, or is almost completely covered with red color that reaches the top of the window, the test results are ready to interpret.



When red color becomes clearly visible at the bottom of the "RESULT EXPIRED" window, test results should no longer be interpreted and should not be considered as conclusive.

#### Interpretation of Test Results



**Negative** – A negative result is indicated when two (2) colored bands appear, one in the Control Region (C) and one in the Test Region (T), before any red color appears at the bottom of the "RESULT EXPIRED" window. This result indicates that the target drug is not present or its concentration is below the detection sensitivity of the test panel. Some negative results may appear in as little as 1 minute, and can be safely interpreted as soon as 2 colored bands are visible.

**Positive** – A positive result is indicated when only one (1) colored band appears in the Control Region (C) and no band appears in the Test Region (T), after a red spot appears in the "RESULT READY" window. This result indicates that the target drug concentration is at or above the detection sensitivity of the panel. More than one panel may be positive. Potentially positive results can only be reported when a red spot appears in the timer's "RESULT READY" window, and before any red color appears in the bottom of the timer's "RESULT EXPIRED" window.

**Invalid** – A test must be considered invalid if, after a red spot appears in the "RESULT READY" window, no bands appear or if a band appears in the Test Region without a Control Band. The presence of a Control Band is necessary to confirm assay performance.



**SEVENTH CIRCUIT COURT OF APPEALS INFORMATION SHEET**

Include the names of all plaintiffs (petitioners) and defendants (respondents) who are parties to the appeal. Use a separate sheet if needed.

NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION DOCKET NUMBER: 08 cv 1975

PLAINTIFF (Petitioner)

v.

DEFENDANT (Respondent)

Patton/appellant	Harris/appellee
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(Use separate sheet for additional counsel)

PETITIONER'S COUNSEL		RESPONDENT'S COUNSEL	
Name	Rodney Patton	Name	
Firm	pro-se #N90674	Firm	
Address	Stateville - STV P.O. Box 112 Joliet, Il. 60434	Address	
Phone		Phone	

Other Information			
District Judge	Shadur	Date Filed in District Court	4/11/08
Court Reporter	J. Andrews X-6899	Date of Judgment	4/14/08
Nature of Suit Code	555	Date of Notice of Appeal	5/9/08

COUNSEL: Appointed ☐ Retained ☐ Pro Se ☒

FEE STATUS: Paid ☐ Due ☐ IFP ☒

IFP Pending ☐ U.S. ☐ Waived ☐

Has Docketing Statement been filed with the District Court Clerk's Office? Yes ☐ No ☒

If State/Federal Habeas Corpus (28 USC 2254/28 USC 2255), was Certificate of Appealability:

Granted ☐ Denied ☐ Pending ☐

If Certificate of Appealability was granted or denied, date of order: \_\_\_\_\_

If defendant is in federal custody, please provide U.S. Marshall number (USM#): \_\_\_\_\_

**IMPORTANT: THIS FORM IS TO ACCOMPANY THE SHORT RECORD SENT TO THE CLERK OF THE U.S. COURT OF APPEALS PURSUANT TO CIRCUIT RULE 3(A). Rev 04/01**

BR

## United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Milton I. Shadur	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	08 C 1975	DATE	4/10/2008
CASE TITLE	Rodney Patton vs. Wilvis Harris, et al		

## DOCKET ENTRY TEXT

Enter Memorandum Order. Section 1915A(b) calls for the present dismissal of the Complaint and this action for failure to state a claim upon which Section 1983 relief may be granted, and this Court so orders. Patton's motion for appointment of counsel is denied as moot. (4-1) Finally, if Case No. 07 C 2180 has not met the standards for a third strike under Section 1915(g), this dismissal certainly does so - - so that Patton has not attained the three-strike level under any view of the matter.

■ [ For further detail see separate order(s). ]

Docketing to mail notices.

	Courtroom Deputy Initials:	SN
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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

RODNEY PATTON #N-90674, )  
 )  
 Plaintiff, )  
 )  
 v. ) No. 08 C 1975  
 )  
 WILVIS HARRIS, et al., )  
 )  
 Defendants. )

No. 08 C 1975

MEMORANDUM ORDER

Rodney Patton ("Patton"), who is scarcely a stranger to the federal courts, has just filed another 42 U.S.C. §1983 ("Section 1983") Complaint, making handwritten inserts to the form provided by this District Court's Clerk's Office, as well as tendering an accompanying handwritten Motion for Appointment of Counsel ("Motion"). As for his earlier lawsuits, Complaint ¶III lists only his Case No. 04 C 3933, still pending before this Court's colleague Honorable Robert Gettleman, then goes on to note:

The Plaintiff does not know all cases brought before the court.

But the "Petitioner Profile Information" that has been supplied to this Court by this District Court's Prisoner Pro Se Staff Attorneys lists no fewer than seven earlier Patton cases in addition to the pending matter before Judge Gettleman, and three of those prior cases may well have triggered the application of 28 U.S.C. §1915(g) to this action:<sup>1</sup>

<sup>1</sup> All further references to Title 28's provisions will simply take the form "Section--."

1. Each of Case Nos. 94 C 369 and 07 C 1761 constitutes a "strike" for Section 1915(g) purposes.

2. In addition, when in Case No. 07 C 2180 Patton sought to appeal this Court's order of dismissal for failure to exhaust administrative remedies, this Court certified under Section 1915(a)(3) that the appeal was filed in bad faith. That certification resulted in an order from the Court of Appeals denying Patton's motion for leave to proceed in forma pauperis and ordering him to pay the \$455 in appellate fees, coupled with a dismissal of the appeal.

Under those circumstances Patton may be precluded by Section 1915(g) from bringing this current action unless he pays the \$350 filing fee in full up front. That alone would call for a dismissal of the Complaint and this action in the absence of such payment on or before April 28, 2008.<sup>7</sup>

But given the possibility that what has been said as to Case No. 07 C 2180 might not be viewed as a third strike for Section 1915(g) purposes, this Court has engaged in the screening of Patton's current Complaint called for by Section 1915A(a). In that respect it is clear that with Patton's allegations being accepted as true (as is required for such purposes), he has not stated a viable (or even a colorable) claim of any violation of

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<sup>2</sup> That would allow Patton more than the 14-day timetable that our Court of Appeals granted him in connection with his attempted appeal in Case No. 07 C 2180.

his federal constitutional rights--the necessary predicate for Section 1983 relief.

With that being so, Section 1915A(b) calls for the present dismissal of the Complaint and this action for failure to state a claim upon which Section 1983 relief may be granted, and this Court so orders.<sup>3</sup> Finally, if Case No. 07 C 2180 has not met the standards for a third strike under Section 1915(g), this dismissal certainly does so--so that Patton has now attained the three-strike level under any view of the matter.<sup>4</sup>



---

Milton I. Shadur  
Senior United States District Judge

Date: April 10, 2008

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<sup>3</sup> This of course compels the denial of Patton's Motion as moot, and this Court orders that as well.

<sup>4</sup> Meanwhile Patton has not been in compliance with his obligations to pay prior filing fees pursuant to Section 1915. This Court has not troubled itself to obtain docket printouts in all of his cases, but the one that it has obtained (in Case No. 07 C 2180) shows that he still owes whatever unpaid amount remains of the \$350 District Court filing fee and of the \$455 in Court of Appeals filing fees. Although that is of course his primary responsibility, a copy of this memorandum order is also being sent to the fiscal authorities at Stateville Correctional Center (where Patton is in custody) as an express reminder of the obligation that Congress has directly imposed on the institution in that respect under Section 1915(b)(2).

BR

**United States District Court**  
**Northern District of Illinois**  
**Eastern Division**

Rodney Patton

**JUDGMENT IN A CIVIL CASE**

v.

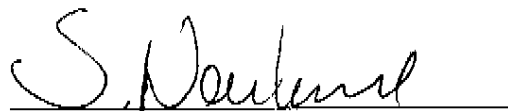
Case Number: 08 C 1975

Wilvis Harris

- ☐ Jury Verdict. This action came before the Court for a trial by jury. The issues have been tried and the jury rendered its verdict.
- ☒ Decision by Court. This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS HEREBY ORDERED AND ADJUDGED that final judgment is entered dismissing this action with prejudice pursuant to Fed. R. Civ. P. 58.

Michael W. Dobbins, Clerk of Court



/s/ Sandy Newland, Deputy Clerk

Date: 4/10/2008

APPEAL, NOLAN, TERMED

**United States District Court**  
**Northern District of Illinois - CM/ECF LIVE, Ver 3.1.3 (Chicago)**  
**CIVIL DOCKET FOR CASE #: 1:08-cv-01975**  
**Internal Use Only**

Patton v. Harris et al  
Assigned to: Honorable Milton I. Shadur  
Cause: 42:1983 Prisoner Civil Rights

Date Filed: 04/11/2008  
Date Terminated: 04/11/2008  
Jury Demand: Plaintiff  
Nature of Suit: 555 Civil Rights (Prison  
Condition)  
Jurisdiction: Federal Question

**Plaintiff**

**Rodney Patton**

represented by **Rodney Patton**  
N-90674  
Stateville - STV  
P. O. Box 112  
Joliet, IL 60434  
PRO SE

V.

**Defendant**

**Wilvis Harris**

**Defendant**

**Ami Workman**

**Defendant**

**Darryl Johnson**

**Defendant**


**Kajtsa**  
*Correctional Officer*

**Defendant**

**Roger E. Walker, Jr.**  
*Director*

Date Filed	#	Docket Text
04/07/2008	<a href="#"><u>1</u></a>	RECEIVED Complaint and five copies by Rodney Patton. (kj, ) (Entered:

		04/09/2008)
04/07/2008	<a href="#"><u>2</u></a>	CIVIL Cover Sheet. (kj, ) (Entered: 04/09/2008)
04/07/2008	<a href="#"><u>3</u></a>	APPLICATION by Plaintiff Rodney Patton for leave to proceed in forma pauperis. (Exhibits) (kj, ) (Entered: 04/09/2008)
04/07/2008	<a href="#"><u>4</u></a>	MOTION by Plaintiff Rodney Patton to appoint counsel. (kj, ) (Entered: 04/09/2008)
04/07/2008	<a href="#"><u>5</u></a>	POST MARKED envelope for initiating document by Rodney Patton (Document not scanned) (aew, ) (Entered: 04/10/2008)
04/10/2008	<a href="#"><u>6</u></a>	MINUTE entry before Judge Honorable Milton I. Shadur:Enter memorandum order. Section 1915A(b) calls for the present dismissal of the complaint and this action for failure to state a claim upon which Section 1983 relief may be granted, and this court so orders. Patton's motion for appointment of counsel is denied as moot.(4-1) Finally, if Case No. 07cv2180 has not met the standards for a third strike under Section 1915(g), this dismissal certainly does so -- so that Patton has now attained the three-strike level under any view of the matter. mailed notice (vcf, ) Modified on 5/2/2008 (srn, ). (Entered: 04/14/2008)
04/10/2008	<a href="#"><u>7</u></a>	MEMORANDUM Order Signed by Judge Honorable Milton I. Shadur on 4/10/2008.(vcf, ) (Entered: 04/14/2008)
04/10/2008	<a href="#"><u>8</u></a>	ENTERED JUDGMENT.(vcf, ) (Entered: 04/14/2008)
04/11/2008	<a href="#"><u>9</u></a>	MINUTE entry before Judge Honorable Milton I. Shadur: Enter Supplement to Memorandum Order. Plaintiff's application to proceed in forma pauperis is granted. (3-1) Patton is assessed an initial filing fee of \$14.17 and the Stateville trust fund officer is to collect that payment and forward it to the Clerk of Court. Monthly payments shall be forwarded to the Clerk each time the amount in the account exceeds \$10 until the full \$350.00 filing fee is paid. Mailed notice (vcf, ) (Entered: 04/14/2008)
04/11/2008	<a href="#"><u>10</u></a>	SUPPLEMENT TO Memorandum Order Signed by Judge Honorable Milton I. Shadur on 4/11/2008.(vcf, ) (Entered: 04/14/2008)
04/14/2008		MAILED Minute order dated 4/11/2008 to Stateville trust fund officer. (vcf, ) (Entered: 04/14/2008)
04/15/2008	<a href="#"><u>11</u></a>	NOTICE by Rodney Patton of Change of Address. (vcf, ) (Entered: 04/17/2008)
04/21/2008	<a href="#"><u>12</u></a>	MOTION by Plaintiff Rodney Patton for reconsideration;(Exhibits). (Poor Quality Original- Paper Document on File.) (vcf, ) (Entered: 04/24/2008)
05/01/2008	<a href="#"><u>13</u></a>	NOTICE to court by Rodney Patton. (vcf, ) (Entered: 05/05/2008)
05/02/2008	<a href="#"><u>14</u></a>	MINUTE entry before Judge Honorable Milton I. Shadur: Enter Memorandum Order. Patton's motion for reconsideration <a href="#"><u>12</u></a> is denied. (12-1)(Attachment) Mailed notice (vcf, ) (Entered: 05/06/2008)

05/02/2008	<a href="#">15</a>	MEMORANDUM Opinion and Order Signed by Judge Honorable Milton I. Shadur on 5/2/2008.(vcf, ) (Entered: 05/06/2008)
05/09/2008	<a href="#">16</a>	NOTICE of appeal by Rodney Patton regarding orders <a href="#">7</a> , <a href="#">6</a> , <a href="#">8</a> (ifp) (dj, ) (Entered: 05/12/2008)
05/09/2008	 <a href="#">17</a>	MOTION by Plaintiff Rodney Patton to continue as a poor person. (dj, ) (Entered: 05/12/2008)
05/12/2008	<a href="#">18</a>	NOTICE of Appeal Due letter sent to counsel of record (dj, ) (Entered: 05/12/2008)